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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/113,747	07/10/1998	ANDREA BASSO	1-3-66-7	8396

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EXAMINER

BUI, KIEU OANH T

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/113,747

Applicant(s)

BASSO ET AL.

Examiner

KIEU-OANH T BUI

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 6-7, 10-17, 19-20, 23-30, 33-39, 42-48, and 51-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Goetz et al. (U.S. Patent No. 5,928,330/ or "Goetz" hereinafter).

Regarding claim 1, Goetz discloses "a computer-readable medium storing instructions adapted to be executed on a processor, to: (a) display, at a receiver, received data; (b) analyze, at the receiver, the quality of the displayed data; (c) formulate, at the receiver and based on the analysis in step (b), a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver, and (d) send, from the receiver, the formulated suggestion", i.e., Goetz discloses a multimedia distribution system to a client i.e., a receiver such as a PC with a display monitor (see abstract and col. 10/lines 37-63) and as being a computer readable medium for storing instructions (as illustrated from Figs. 1-7), from a server 920 (as illustrated in Fig. 9) wherein the multimedia files can be streaming accordingly or adjusting appropriately according to network's characteristics (col. 4/lines 34-54) or to user's preferences (col. 8/lines 40-50) the client or the user can change or alter the characteristics of data to be sent to him/her by suggesting or requesting some parameter suggestions, for example, changing the desired rate of transmission between the user's device and the server for receiving multimedia files (col. 11/lines 27-48), and the formulated suggestion or user requests for quality presentations can be

obtained by sending the requests to the server, and the server sends the requested data to the user terminal (col. 3/lines 1-35; Figs. 10 & 11, and col. 10/line 64 to col. 12/line 13 for details on procedures for the client how to request quality presentations being displayed on the client's device from the server).

As for claim 2, Goetz discloses "the storing instructions adapted to be executed on a processor to: (e) receive, at the receiver, a user preference to be used in the analysis in step (b)", i.e., user preferences are used for opening presentations at the user terminal based on the earlier

As for claim 3, Goetz further discloses "wherein the instruction (a) to display data includes instructions adapted to be executed by a processor to display, at the receiver, audiovisual data", i.e., audiovisual data or multimedia data is addressed (col. 1/lines 25-38).

As for claim 4, Goetz teaches "wherein the instruction (b) to analyze the quality of the displayed data includes instructions adapted to be run on the processor to analyze, at the receiver, the system load", i.e., the system load or system capacity is of concern for an effective solution as the object of this system (col. 2/lines 26-55).

As for claim 6, Goetz further teaches the step of "wherein the instruction c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions that include: (I) send timing information identifying the point in time where the data was collected; and (ii) send timing information identifying the point in time when the suggested action should be honored" by disclosing the timing information must be provided in order to provide the synchronization for the transmission of multimedia stream (col. 1/line 58 to col. 2/line 14).

As for claim 7, Goetz further discloses "wherein the instruction c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to: (I) alter the frame rate", i.e., different frame rates can be requested and performed (col. 8/lines 40-50; col. 10/lines 18-35; col. 11/lines 27-48).

As for claim 10, Goetz shows the step of “wherein the instruction c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to: (I) alter audio channel characteristics”, i.e., language or rate of audio can be changed (col. 6/lines 10-30).

As for claim 11, Goetz further discloses the step of “wherein the instruction c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to: (I) alter the graphics hardware load”, i.e., the graphics hardware load or the graphics presentations to viewers can be changed, i.e., multiple copies can be sent (col. 10/lines 18-35).

As for claim 12, Goetz discloses “wherein the instruction c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to: (I) alter the CPU load”, i.e., the CPU load or the system capacity can be altered (col. 2/lines 35-55).

As for claim 13, Goetz further disclose “wherein the instruction c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions that include: (I) altering the RAM amount available”, i.e., a RAM is addressed for storing packets containing multimedia information (col. 7/lines 19-39).

Regarding claims 14-17, 19-20 and 23-26, these claims for “a method of transmitting data from a sender to a receiver across a network comprising: (a) displaying, at the receiver, received data; (b) analyzing, at the receiver, the quality of the displayed data; c) formulating, at the receiver and based on the analysis in step (b), a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver; and (d) sending, from the receiver, the formulated suggestion to alter the quality of the received data” with same limitations as earlier cited are rejected for the reasons given in the scope of claims 1-4, 6-7 and 10-13 as already disclosed in details above.

Regarding claims 27-30 and 33-35, these claims for “a method for transmitting data across a network comprising: a) transmitting data to a receiver; b) receiving a suggestion to alter the transmitted data on the basis of a quality of data transmitted in (a); c) selecting, based on the received suggestion, an action to alter the data; and d) altering the transmitted data” with same limitations as earlier cited are rejected for the reasons given in the scope of claims 1-4, 6-7 and 10-13 as already disclosed in details above.

Regarding claims 36-39 and 42-45, these claims for “an apparatus for transmitting data from a sender to a receiver across a network comprising: (a) a processor; (b) a port coupled to said processor; and c) a memory coupled to said processor and said port, storing instructions adapted to be run on said processor to: (I) display, at the receiver, received data; (ii) analyze, at the receiver, the quality of the displayed data; (iii) formulate, at the receiver and based on the analysis in (ii), a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver; and (iv) send, from the receiver, the formulated suggestion to alter the quality of the received data” with a host interface as a port for interfacing to other components of the network (Fig. 10/item 920 and Fig.11) and with same limitations as earlier cited are rejected for the reasons given in the scope of claims 1-4, 6-7 and 10-13 as already disclosed in details above.

Regarding claim 46-48 and 51-53, these claims for “an apparatus for transmitting data from a sender to a receiver across a network comprising: (a) a processor; (b) a port coupled to said processor; and c) a memory coupled to said processor and said port, storing instructions adapted to be run on said processor to: (I) transmit data to a receiver; (ii) receive a suggestion to alter the transmitted data on the basis of a quality of data transmitted in (i); and (iii) selecting, based on the received suggestion, an action to alter the data; and (iv) altering the transmitted data” with a host interface as a port for interfacing to other components of the network (Fig.

10/item 920) and with same limitations as earlier cited are rejected for the reasons given in the scope of claims 1-4, 6-7 and 10-13 as already disclosed in details above.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al (US Patent No. 5,928,330) in view of Pocock et al (U.S. Patent No. 5,014,125).

As for claims 5 and 18, Goetz does not further disclose the detailed components of the client receiver as claimed; however, Pocock shows “wherein the instruction (b) to analyze the quality of the displayed data includes instructions adapted to be run on the processor to: (I) analyze, at the receiver, component load, wherein a component is chosen from the set comprising a central-processing unit, a graphics card, and a texture-mapping engine” (Fig. 4/item 94 for a CPU; Fig. 4/item 86 for video processor and Fig. 5/item 118 for a graphics generator (within a graphics card); and col. 8/line 61 to col. 9/line 14 for a method of creating commands with alpha-numeric keys in commands as a texture-mapping engine). Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to modify Goetz's technique with well-known and must-have features of a PC such as a CPU, a graphics card and a texture-mapping engine as one of Pocock in order to perform the mentioned activities or analyzing the quality of displayed data as noted.

5. Claims 8-9, 21-22, 31-32, 40-41, and 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goetz et al (US Patent No. 5,928,330) in view of Volk et al (U.S. Patent No. 5,673,401/ or "Volk" hereinafter).

Regarding claims 8-9, 21-22, 31-32, 40-41, and 49-50, Goetz does not clearly show the computer-readable medium as of claim 2 wherein the instruction c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to: "alter the color depth and alter the window size"; however, Volk teaches the same technique of providing interactive two-way multimedia information data to users. In fact, Volk teaches an enhanced user interface that allows users to customize the control item via a user input device (Volk, col. 5/line 20-60). Volk clearly teaches an enhanced technique of altering the color depth and the window size of the user interface at the user terminal (col. 18/lines 10-30; col. 28/line 64 to col. 29/line 14 for altering the "window size"; and col. 33/lines 45-55 for altering the "color depth"). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goetz's interactive multimedia presentation system with Volk's teaching technique of altering the window size and the color depth as additional tools for customizing the user interface as revealed by Volk as preferred.

Response to Arguments

6. Applicant's arguments filed on 12/10/2002 have been fully considered but they are not persuasive.

Applicants basically argues that for at least the reason "the Goetz reference does not disclose analyzing, at the receiver, the quality of received data, and formulating, at the receiver, based on the analysis, a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver as required in claims 1, 14 and 36" and a similar limitation in claims 27 and 46; however, the Examiner would like to point out to Applicants, in a closer look, that Goetz does disclose an exact same technique as Goetz's invention includes a system and device for, and method of, presenting multimedia information to a client from a server, and either server or client side can gather information data and analyze, and the characteristics of data can be altered at the receiver or at the client, i.e., the streaming rate of information data, which represents the quality of displayed or presented data at the client or receiver (col. 3/lines 13-30; col. 4/lines 34-55; col. 8/lines 40-50; col. 11/lines 27-48; col. 12/lines 4-26 as the user can alter the streaming by the client logic and video data can be altered as in col. 8/lines 40-50; and col. 13/lines 49-67 as the user can perform the analysis on the statistics of the quality of received data at the receiver). Therefore, the Examiner does not agree with the arguments of the Applicants and stands with the previous Office Action and this Final Office Action as discussed herein.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. **Any response to this action should be mailed to:**
Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM, with alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Krista Bui
Art Unit 2611
February 11, 2003